

AMENDED IN SENATE JANUARY 12, 1998

AMENDED IN SENATE JANUARY 5, 1998

AMENDED IN SENATE MARCH 31, 1997

## SENATE BILL

**No. 597**

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### **Introduced by Senator Peace**

February 24, 1997

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An act to add Chapter 6 (commencing with Section 17300) to Part 2 of Division 7 of the Business and Professions Code, relating to electronic commerce.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 597, as amended, Peace. Internet use.

(1) Existing law governing advertising prohibits a person from soliciting the sale of goods either in person or over the telephone without giving identifying information. It is also unlawful, among other things, for a person soliciting the sale of goods either in person or over the telephone to use a scheme that misrepresents the solicitor's true status or mission for the purpose of making the sale.

This bill would provide that any solicitation, transaction, or communication made over the Internet shall be unlawful if that solicitation, transaction, or communication would be unlawful under specified provisions of law if made in person, by mail, by means of a telephone, or ~~in any other manner~~ *by any other means of communication*. The bill would provide that the same criminal or civil penalties or remedies applicable to an unlawful solicitation, transaction, or communication would also apply to an unlawful solicitation,

transaction, or communication made over the Internet. This bill would also provide that any person who makes an unlawful solicitation, transaction, or other communication over the Internet that originates from outside the state shall, to the extent permitted under the state *civil and criminal* “long-arm” ~~personal~~ jurisdiction ~~law~~ laws, be subject to the *personal* jurisdiction, *and that person’s property located in this state shall be subject to the “in rem” jurisdiction*, of the courts of this state in any relevant civil or criminal action.

Because this bill would expand the scope of existing crimes, it would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that  
2 the Internet is a collection of interconnected computers  
3 and communications networks that is used for  
4 commercial, educational, and recreational purposes. Use  
5 of the Internet is growing rapidly, doubling every four  
6 months according to some estimates. The number of  
7 persons using the Internet has doubled every year for the  
8 past several years.

9 SEC. 2. Chapter 6 (commencing with Section 17300)  
10 is added to Part 2 of Division 7 of the Business and  
11 Professions Code, to read:

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13 CHAPTER 6. UNLAWFUL USE OF THE INTERNET

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15 17300. (a) Any solicitation, transaction, or other  
16 communication made over the Internet, as defined in  
17 Section 17538, shall be unlawful if it would be unlawful  
18 under ~~this code~~ Chapter 5 (commencing with Section

1 17200), Chapter 6.5 (commencing with Section 17350), or  
 2 Chapter 7 (commencing with Section 17360) of Part 2, or  
 3 Chapter 1 (commencing with Section 17500) of Part 3, for  
 4 that solicitation, transaction, or other communication to  
 5 be made in person, by mail, by means of a telephone, or  
 6 ~~in any other manner~~ by any other means of  
 7 communication. The same criminal or civil penalties or  
 8 remedies applicable to an unlawful solicitation,  
 9 transaction, or other communication also apply to an  
 10 unlawful solicitation, transaction, or communication  
 11 made over the Internet.

12 (b) Any person who violates this section by making an  
 13 unlawful solicitation, transaction, or other  
 14 communication over the Internet that originates from  
 15 outside the state shall, to the extent permitted under  
 16 Section 410.10 of the Code of Civil Procedure, be subject  
 17 ~~to the jurisdiction of the courts of this state in any relevant~~  
 18 ~~civil or criminal action.~~ *to the personal jurisdiction, and*  
 19 *that person's property located within this state shall be*  
 20 *subject to the "in rem" jurisdiction, of the courts of this*  
 21 *state in any relevant civil action. In addition, that person*  
 22 *shall, to the extent permitted under Section 778 of the*  
 23 *Penal Code, be subject to the jurisdiction of the courts of*  
 24 *this state in any relevant criminal action.*

25 SEC. 3. No reimbursement is required by this act  
 26 pursuant to Section 6 of Article XIII B of the California  
 27 Constitution because the only costs that may be incurred  
 28 by a local agency or school district will be incurred  
 29 because this act creates a new crime or infraction,  
 30 eliminates a crime or infraction, or changes the penalty  
 31 for a crime or infraction, within the meaning of Section  
 32 17556 of the Government Code, or changes the definition  
 33 of a crime within the meaning of Section 6 of Article  
 34 XIII B of the California Constitution.

35 Notwithstanding Section 17580 of the Government  
 36 Code, unless otherwise specified, the provisions of this act  
 37 shall become operative on the same date that the act  
 38 takes effect pursuant to the California Constitution.

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